(26)

HIGH COURT OF CHHATTISGARH AT BILASPUR

S.B. : HON'BLE MR. SATISH K. AGNIHOTRI, J.

WRIT PETITION (S) No. 4036 of 2005

PETITIONER : Banchan Sai Sarpraj, Son of Shri Dil Bodh, Age 38 years, Posted at Primary School Kukargaon, Block Patthalgaon, District Jashpur (Chhattisgarh)

VERSUS

RESPONDENTS :

1. State of Chhattisgarh, Through Secretary, School Education Department, Mantralaya, D.K.S. Bhawan, Raipur.
2. Director, Public Instruction, Pension Bada, Raipur, Chhattisgarh.
3. District Education Officer, District Jashpur (C.G.)

Present: Shri Anupam Dubey, Advocate for the petitioner.
Shri Sushil Dubey, Government Advocate for the State/respondents.

ORDER

(Passed on 16th March 2007)

1. The petitioner, while working as Assistant Teacher at Primary School Kukargaon, District Jashpur, was transferred to Middle School Paraghati, District Raigarh, on the same terms and conditions vide impugned order dated 29.09.2001 (Annexure A/1).

(27)

2. The Madhya Pradesh Administrative Tribunal at Raipur vide interim order dated 31.12.2001 directed to maintain status quo in regard to the position of the petitioner as was prevailing on 15.10.2001. By virtue of the interim order the petitioner is continuing at the original place of posting.

3. Be that as it may, with the passage of time this petition has become infructuous as period of transfer is not applicable forever. At this point of time, there is no question to examine the validity of the transfer order. However, the respondents are at liberty to pass appropriate order keeping in view the public interest and administrative exigency, without insisting on compliance of the impugned transfer order.

4. It is well settled principle of law that transfer is an incident of service and it is for the employer to decide as to where a particular officer/employee be posted, keeping in view public interest as well as administrative exigency. This Court has limited jurisdiction to interfere in the transfer matter and this Court can interfere only in the case of proved malafide, non-competence of authority passing the transfer order and transfer order not being in conformity with the rules and regulations.

5. In view of the above, this petition stands disposed of. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Amit